

ASSEMBLY BILL

No. 1508

**Introduced by Committee on Agriculture (Matthews (Chair),
Maze (Vice Chair), Blakeslee, Cogdill, Parra, Salinas, and
Vargas)**

February 22, 2005

An act to amend Sections 52254, 52254.4, 52254.5, 52257.6, 52257.8, 52260, 52311, 52331, 52332, 52351, 52354, 52361, 52391, 52401, 52451, 52452, 52481, 52482, 52483, 52484, 52487, and 52511 of the Food and Agricultural Code, relating to agriculture.

LEGISLATIVE COUNSEL'S DIGEST

AB 1508, as introduced, Committee on Agriculture. Seed.

Existing law, the California Seed Law, generally regulates seed sold in California to ensure that seed purchased by the consumer-buyer is properly identified and of the quality represented on the tag or label. Existing law defines agricultural seed as not including any variety that is generally known and sold as vegetable seed, for these purposes.

This bill would include vegetable seed in the definition of agricultural seed and make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 52254 of the Food and Agricultural
- 2 Code is amended to read:
- 3 52254. "Agricultural seed" means the seed of any
- 4 domesticated grass or cereal, and of any legume or other plant
- 5 which is grown as turf, cover crop, forage crop, fiber crop, ~~or~~

1 field crop, *or vegetable seed* and mixtures of such seeds. It does
2 not, however, include any variety ~~which~~ *that* is generally known
3 and sold as flower seed ~~or vegetable seed~~.

4 SEC. 2. Section 52254.4 of the Food and Agricultural Code is
5 amended to read:

6 52254.4. "Certification" means to certify as to the variety,
7 purity, quality, type, strain, or other genetic character of
8 agricultural ~~or vegetable~~ seed.

9 SEC. 3. Section 52254.5 of the Food and Agricultural Code is
10 amended to read:

11 52254.5. "Labeler" means any person whose name and
12 address appears on the label pertaining to or attached to a lot or
13 container of agricultural ~~or vegetable~~ seed, ~~or both agricultural~~
14 ~~and vegetable~~ seed, for sale and distribution within the state.

15 SEC. 4. Section 52257.6 of the Food and Agricultural Code is
16 amended to read:

17 52257.6. "Process" means any modification of the form or
18 nature of agricultural ~~or vegetable~~ seed, or any treatment of the
19 seed, which renders it inviable.

20 SEC. 5. Section 52257.8 of the Food and Agricultural Code is
21 amended to read:

22 52257.8. "Research" means any research related to the
23 variety, purity, quality, type, strain, or other genetic and
24 physiological characteristics of agricultural ~~or vegetable~~ seed or
25 the production thereof.

26 SEC. 6. Section 52260 of the Food and Agricultural Code is
27 amended to read:

28 52260. "Weed seed" means any noxious weed seed, and any
29 seed ~~which~~ *that* is not included in the definitions of agricultural
30 ~~or vegetable seeds~~ *seed*, if it occurs incidentally in agricultural ~~or~~
31 ~~vegetable~~ seed.

32 SEC. 7. Section 52311 of the Food and Agricultural Code is
33 amended to read:

34 52311. A person is not subject to the penalties which are
35 prescribed by this chapter in any of the following cases:

36 (a) For selling in this state any agricultural ~~or vegetable~~ seed
37 which is incorrectly labeled or represented as to kind, variety, or
38 type, which seed cannot be identified by examination of it, unless
39 he has failed to obtain an invoice or grower's declaration which
40 gives the commonly accepted name of the kind, kind and variety,

1 or kind and type, and to take such other precautions as may be
2 necessary to insure the identity to be that which is stated.

3 (b) As to any matter which is required by Article 8
4 (commencing with Section 52451) of this chapter, for selling
5 such seed in original unopened sealed packages which are fully
6 labeled by another dealer, unless he has failed to have such seed
7 retested and relabeled as to the percentage of germination within
8 the period which is prescribed by Section 52481, or unless he has
9 failed to correct the label after notice that such label has been
10 found to be incorrect.

11 (c) For shipping, delivering, transporting, or selling within this
12 state any agricultural ~~or vegetable~~ seed which has a false labeling
13 as to percentage of germination or hard seeds, unless he has first
14 been given an opportunity by the director to be heard. This
15 exemption does not, however, relieve any person from the
16 obligation, upon order of an enforcement official, to stop further
17 sale of any seed which is found to be incorrectly labeled as to
18 germination, nor does it exempt such seed from seizure pursuant
19 to this chapter.

20 SEC. 8. Section 52331 of the Food and Agricultural Code is
21 amended to read:

22 52331. The director, by regulations, shall do all of the
23 following:

24 (a) Adopt germination standards for vegetable seed.

25 (b) Adopt tolerances to be applied in all enforcement
26 procedure required by this chapter.

27 (c) Prescribe methods of procedure in the examination of lots
28 of any agricultural ~~or vegetable~~ seed, and in securing samples of
29 such lots.

30 (d) Establish a reasonable schedule of fees for tests,
31 examinations, and services except those which are required for
32 quarantine or other purposes, not directly related to the
33 enforcement of this chapter. The schedule shall be based upon
34 the approximate cost of the service rendered. The director may,
35 however, provide for the examination of seeds for identification
36 purposes without charge.

37 (e) Adopt such other regulations as will assist in carrying out
38 the purposes of this chapter.

39 Every standard or tolerance which is adopted pursuant to this
40 chapter shall be as nearly as practicable to that which is

1 established under the Federal Seed Act (7 U.S.C., Sec. 1551, et
2 seq.).

3 SEC. 9. Section 52332 of the Food and Agricultural Code is
4 amended to read:

5 52332. The secretary, by regulation, may adopt all of the
6 following:

7 (a) A list of the plants and crops that the secretary finds are or
8 may be grown in this state from agricultural ~~or vegetable~~ seed.

9 (b) A list of the plants and crops that the secretary finds are
10 detrimental to agriculture if they occur incidentally in other
11 crops, and which, therefore, are classed as weed seed except if
12 sold alone or as a specific constituent of a definite seed mixture.

13 (c) A list of noxious weed seed that the secretary finds are
14 prohibited noxious weed seed, as defined in this chapter.

15 (d) A list of those noxious weed seed that are not classified as
16 prohibited noxious weed seed, and which, therefore, are classed
17 by this chapter as restricted noxious weed seed.

18 (e) A list of substances that are likely to be used for treating
19 grain or other crop seed, which the secretary finds and
20 determines are toxic to human beings or animals if so used,
21 together with an appropriate warning or caution statement for
22 each such substance.

23 (f) Establish methods and procedures, upon the
24 recommendation of the board, for the conciliation, mediation, or
25 arbitration of disputes between labelers and any persons
26 concerning conformance with label statements, advertisements,
27 or other disputes regarding the quality or performance of seed.
28 The methods and procedures shall be a mandatory prerequisite to
29 pursuing other dispute resolution mechanisms, including, but not
30 limited to, litigation. However, if conciliation, mediation, or
31 arbitration proceedings are commenced under this section to
32 resolve a controversy, the statute of limitations that applies to a
33 civil action concerning that controversy is tolled upon
34 commencement of conciliation, mediation, or arbitration
35 proceedings, and until 30 days after the completion of those
36 proceedings. As used in this subdivision, "completion of those
37 proceedings" means the filing of a statement of agreement or
38 nonagreement by the conciliator or mediator, or the rendering of
39 a decision by an arbitrator or arbitration committee.

1 Conciliation, mediation, or arbitration shall not affect any
2 enforcement action by the secretary pursuant to this chapter.
3 Regulations adopted by the secretary for the mandatory
4 conciliation, mediation, or arbitration of disputes shall require
5 that adequate notice be provided on the seed label notifying any
6 buyer of the requirement to submit a dispute to mandatory
7 conciliation, mediation, or arbitration as a prerequisite to other
8 dispute resolution mechanisms, including litigation.

9 (g) Establish additional labeling requirements for coated,
10 pelleted, encapsulated, mat, tape, or any other germination
11 medium or device used on agricultural or vegetable seed in order
12 that the purchaser or consumer will be informed as to the actual
13 amount of seed purchased.

14 SEC. 10. Section 52351 of the Food and Agricultural Code is
15 amended to read:

16 52351. Every labeler of ~~agricultural or vegetable~~ seed offered
17 for sale or sold in this state, or any person who receives or
18 possesses for sale or sells in this state any such seed which is not
19 grown in this state, shall annually register with the director to
20 obtain authorization to sell ~~agricultural or vegetable~~ seed before
21 he engages in ~~such~~ *this* activity, except any of the following:

22 (a) An individual grower that conditions ~~such~~ *agricultural*
23 seed exclusively for his own planting use.

24 (b) A person using ~~agricultural or vegetable seed, or both~~
25 ~~agricultural and vegetable seed~~, only for purposes of planting
26 seed increase.

27 (c) Any person licensed to sell nursery stock pursuant to
28 Chapter 1 (commencing with Section 6701) of Part 3 of Division
29 4, except when he also engages in activities as defined under
30 Section 52257.5.

31 SEC. 11. Section 52354 of the Food and Agricultural Code is
32 amended to read:

33 52354. Each person required to be registered pursuant to
34 Section 52351 shall pay an assessment annually to the director in
35 an amount not to exceed forty cents (\$0.40) per one hundred
36 dollars (\$100) gross annual dollar volume sales of ~~agricultural or~~
37 ~~vegetable seed, or both~~, in this state for the preceding fiscal year
38 defined in Section 52352, except in the following cases:

39 (a) No assessment shall be paid by any labeler or any other
40 person for any ~~agricultural or vegetable~~ seed for which the

1 assessment has been previously paid by another labeler or
2 person, except when the identity of the lot has been changed.

3 (b) No assessment shall be paid on that portion of a person's
4 sales of agricultural ~~or vegetable~~ seed, ~~or both~~, that is sold in
5 containers of four ounces or less net weight of seed.

6 (c) No assessment shall be paid on agricultural ~~or vegetable~~
7 seed, ~~or both~~, sold and shipped out of this state.

8 SEC. 12. Section 52361 of the Food and Agricultural Code is
9 amended to read:

10 52361. The director, each commissioner, and any qualified
11 representative of the commissioner, shall sample and inspect any
12 agricultural ~~or vegetable~~ seed which is subject to this chapter at
13 ~~such~~ *the* time and place and to ~~such~~ *the* extent as he may deem
14 necessary to determine whether ~~such~~ *the* agricultural ~~or vegetable~~
15 seed is in compliance with the provisions of this chapter, and
16 notify promptly the person that is in possession or control of the
17 seed of any violation.

18 SEC. 13. Section 52391 of the Food and Agricultural Code is
19 amended to read:

20 52391. The director or the commissioner and any qualified
21 representative of the commissioner may issue and enforce a
22 written or printed "stop-sale" order to the owner or custodian of
23 any lot of agricultural ~~or vegetable~~ seed ~~which~~ *that* he finds is in
24 violation of any provision of this chapter, ~~which~~ *that* shall
25 prohibit further sale of ~~such~~ *the* seed until the officer has
26 evidence that the law has been complied with. Upon compliance,
27 ~~such~~ *the* order shall be removed.

28 SEC. 14. Section 52401 of the Food and Agricultural Code is
29 amended to read:

30 52401. The secretary shall, by regulation, establish a list of
31 seed-certifying agencies that the secretary finds qualified to
32 certify as to the variety, purity, quality, type, strain, or other
33 genetic character of agricultural ~~or vegetable~~ seed. The secretary
34 shall consult with the director of the University of California
35 Agricultural Experiment Station before approving the
36 qualifications of any seed-certifying agency.

37 SEC. 15. Section 52451 of the Food and Agricultural Code is
38 amended to read:

39 52451. This article does not apply to any of the following:

1 (a) Seed or grain—~~which~~ *that* is not intended for sowing
2 purposes.

3 (b) Seed—~~which~~ *that* is in storage in, or consigned to, a seed
4 cleaning or conditioning establishment for cleaning or
5 conditioning.

6 (c) Seed or grain—~~which~~ *that* is transported without transfer of
7 title for sowing on land—~~which~~ *that* is owned by the person by
8 whom the seed or grain was produced.

9 (d) Seed—~~which~~ *that* is weighed and packaged in the presence
10 of the purchaser from a bulk container, if—~~such~~ *that* container is
11 properly and conspicuously labeled as provided by this chapter.

12 (e) Seed or grain—~~which~~ *that* is transported from one
13 warehouse to another without transfer of title or in storage in a
14 warehouse, if each container is plainly marked or identified with
15 a lot number or other lot identification and the label information
16 ~~which~~ *that* is required by this article is available at the request of
17 an enforcing officer.

18 SEC. 16. Section 52452 of the Food and Agricultural Code is
19 amended to read:

20 52452. Except as otherwise provided in Section 52454, each
21 container of agricultural seed which is for sale or sold within this
22 state for sowing purposes, unless the sale is an occasional sale of
23 seed grain by the producer of the seed grain to his neighbor for
24 use by the purchaser within the county of production, shall bear
25 upon it or have attached to it in a conspicuous place a plainly
26 written or printed label or tag in the English language, which
27 gives all of the following information:

28 (a) Commonly accepted name of the kind, kind and variety, or
29 kind and type of each agricultural seed component in excess of 5
30 percent of the whole, and the percentage by weight of each. If the
31 aggregate of agricultural seed components, each present in an
32 amount not exceeding 5 percent of the whole, exceeds 10 percent
33 of the whole, each component in excess of 1 percent of the whole
34 shall be named together with the percentage by weight of each. If
35 more than one component is required to be named, the names of
36 all components shall be shown in letters of the same type and
37 size.

38 (b) Lot number or other lot identification.

39 (c) Percentage by weight of all weed seeds.

(d) The name and approximate number of each kind of restricted noxious weed seed per pound.

(e) Percentage by weight of any agricultural seed except that which is required to be named on the label.

(f) Percentage by weight of inert matter. If a percentage by weight is required to be shown by any provision of this section such percentage shall be exclusive of any substance which is added to the seed as a coating and shown on the label as such.

(g) For each agricultural seed, in excess of 5 percent of the whole, stated in accordance with subdivision (a) of this section, the percentage of germination, exclusive of hard seed; the percentage of hard seed, if present; and the calendar month and year the test was completed to determine such percentages. Following the statement of such percentages, the additional statement "total germination and hard seed" may be stated as such, if desired.

(h) Name and address of the person that labeled the seed, or of the person that sells the seed within this state.

All determinations of noxious weed seeds are subject to tolerances and methods of determination which are prescribed in the regulations which are adopted pursuant to this chapter.

(i) This section shall not apply to vegetable seed.

SEC. 17. Section 52481 of the Food and Agricultural Code is amended to read:

52481. Except as otherwise provided in this section or in Section 52486, it is unlawful for any person to ship, deliver, transport, or sell any agricultural ~~or vegetable~~ seed within this state, other than the seed ~~which~~ that is described in Section 52451, unless the test to determine the percentage of germination ~~which~~ that is required by Article 8 (commencing with Section 52451) has been completed within the following period, exclusive of the calendar month in which the test is completed, immediately prior to shipment, delivery, ~~transportation~~ *transportation*, or sale:

(a) In the case of any agricultural ~~or vegetable~~ seed ~~which~~ that is shipped, delivered, transported, or sold to a dealer for resale, eight months.

(b) In the case of any agricultural ~~or vegetable~~ seed ~~which~~ that is sold at retail, 15 months.

1 (c) In the case of any agricultural ~~or vegetable seed which that~~
2 is packaged under conditions ~~which that~~ the director finds and
3 determines will prolong the viability of the seed, the director may
4 designate, in regulations ~~which that~~ are adopted pursuant to this
5 chapter, a longer period than otherwise specified in this section,
6 and may require any additional labeling that may be necessary to
7 maintain identification of seed ~~which that~~ is packaged under
8 these conditions.

9 (d) Seed labeled under Section 52455 is not subject to
10 subdivision (b) upon expiration of the viability assurance
11 statement. This exemption does not limit the right of the
12 enforcing officer to enforce other applicable sections of this
13 chapter.

14 SEC. 18. Section 52482 of the Food and Agricultural Code is
15 amended to read:

16 52482. Except as otherwise provided in Section 52486, it is
17 unlawful for any person to ship, deliver, transport, or sell any
18 agricultural ~~or vegetable seed~~ within this state ~~which that~~ is
19 within any of the following classes:

20 (a) Is not labeled in accordance with the provisions of this
21 chapter. This subdivision does not, however, apply to any seed
22 ~~which that~~ is described in Section 52451.

23 (b) Contains prohibited noxious weed seed, subject to
24 tolerances and methods of determination prescribed in the
25 regulations ~~which that~~ are adopted pursuant to this chapter. This
26 subdivision does not, however, apply to any of the seed ~~which~~
27 ~~that~~ is described in subdivisions (a) or (b) of Section 52451.

28 (c) Has a false or misleading labeling, or pertaining to which
29 there has been a false or misleading advertisement.

30 (d) Is represented to be certified seed or registered seed, unless
31 it has been produced and labeled in accordance with the
32 procedures and in compliance with the rules and regulations of a
33 seed-certifying agency which is officially recognized under the
34 provisions of this chapter, if produced in this state, or under the
35 provisions of the Federal Seed Act (7 U.S.C., Sec. 1551, et seq.),
36 as enacted, and rules and regulations ~~which that~~ are adopted
37 pursuant to that act, if produced outside of this state.

38 (e) Contains more than 1 1/2 percent by weight of all weed
39 seeds. This subdivision does not, however, apply to any seed
40 which is described in subdivision (a),(b), or (c) of Section 52451.

(f) To sell, by variety name, seed not certified by an official seed certifying agency when it is a variety for which a certificate of plant variety protection under the United States Plant Variety Protection Act (84 Stats 1542; 7 U.S.C. Sec. 2321, et seq.) specifies sale only as a class of certified seed, except that seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the written approval of the owner of the variety.

SEC. 19. Section 52483 of the Food and Agricultural Code is amended to read:

52483. It is unlawful for any person to do any of the following:

(a) Detach, alter, deface, or destroy any label, warning tag, or notice which is provided for in this chapter or in the regulations ~~which~~ *that* are adopted pursuant to it, or alter or substitute seed, in a manner that may defeat the purposes of this chapter.

(b) Disseminate any false or misleading advertisement concerning agricultural ~~or vegetable~~ seed in any manner or by any means.

(c) Hinder or obstruct in any way any authorized person in the performance of his duties under this chapter.

(d) Fail to comply with a “stop-sale” order.

SEC. 20. Section 52484 of the Food and Agricultural Code is amended to read:

52484. (a) Except as otherwise provided in Section 52486, it is unlawful for any person to ship, deliver, transport, or sell agricultural ~~or vegetable~~ seed ~~which~~ *that* is treated after harvest with any substance that is likely to be poisonous or toxic to human beings or animals unless there is conspicuously shown on the analysis tag or label, on a separate tag or label attached to each container, or upon each container all of the following information:

(1) “TREATED SEED” and the signal word for the category of treatment material all in capital letters.

(2) The chemical or generic name of the treatment material.

(3) An appropriately worded statement as to the hazards to humans and animals.

(4) An appropriately worded statement of practical treatment, if present.

1 (b) This information shall be derived from the technical
2 chemical label of the substance applied to the seed.

3 (c) When more than one substance is applied, each substance
4 shall be noted on the label, and the seed shall be labeled for the
5 substance with the higher level of toxicity.

6 SEC. 21. Section 52487 of the Food and Agricultural Code is
7 amended to read:

8 52487. A violation of this chapter for having shipped,
9 delivered, transported, or sold agricultural or vegetable seed
10 ~~which~~ *that* has a false or misleading labeling shall be construed
11 to have been committed at the time of discovery of such
12 violation, and a complaint charging such violation shall be filed
13 within one year from the time of such discovery. No complaint
14 which charges such a violation shall, however, be filed after two
15 years from the date of sale.

16 SEC. 22. Section 52511 of the Food and Agricultural Code is
17 amended to read:

18 52511. Any lot of agricultural ~~or vegetable seed~~ ~~which~~ *that*
19 does not comply with this chapter is a public nuisance and is
20 subject to seizure on complaint of the director or the
21 commissioner or any enforcing officer of this chapter to a court
22 of competent jurisdiction in the area in which the seed is located.